

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, MARCH 29, 2004
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	4
ATTENDANCE DURING THE MEETING	4
ITEM-1: ROLL CALL.....	5
ITEM-10: INVOCATION	5
ITEM-30: Two actions related to “Ty Odeh Day” and Recognition of Scripps Institution of Oceanography and the University of California, San Diego	5
ITEM-31: Approval of Council Minutes	6
ITEM-50: Tenants' Right To Know (Cause Eviction) Ordinance	7
* ITEM-100: Awarding a Contract to John Carey Construction for the Central Area Police Station Expansion	7
ITEM-101: Awarding a Contract to Erickson-Hall Construction Company for the Construction of Fire Station 12 and 31	9
* ITEM-102: Sunset Cliffs Boulevard Improvements – Street Enhancements	11
* ITEM-103: Transfer of Funds – Los Peñasquitos Creek Neighborhood Park - Tot Lot Upgrade	12
* ITEM-104: La Jolla Mesa Vista Underground Utility District.....	14
* ITEM-105: Agreement with Central Commercial Revitalization Corporation for the Administration of Contracts for Goods and Contracts for Services for the Central Commercial Maintenance Assessment District	15
* ITEM-106: Agreement with Little Italy Association for Administration of Contracts for Goods and Contracts for Services for the Little Italy Assessment District	17

Minutes of Monday, March 29, 2004
Table of Contents (Continued)

Page 2

* ITEM-107:	Agreement with Project Design Consultants for As-Needed Consultant-Civil Engineering Services	19
* ITEM-108:	Second Amendment to Agreement with EMA, Inc., for Telemetry Control Systems-Supervisory Control and Data Acquisition (SCADA)-Phase II.....	21
* ITEM-109:	Extending Lease Agreement with Allan Company for Miramar Recycling Center Service Contract.....	22
* ITEM-110:	Amendment No. 1 to the Agreement with Boyle Corporation and Street Repairs for Sewer Pump Station No. 42	24
* ITEM-111:	Grant Application for Funding of a Citywide Pedestrian Master Plan.....	26
* ITEM-112:	DUI P.A.C.E. (Prevention through Awareness and Cooperative Education) Car Program - Office of Traffic Safety Grant	28
* ITEM-113:	La Jolla Village Drive Widening – Property Rights.....	30
* ITEM-114:	Appointment and Reappointment to the San Diego Planning Commission	31
ITEM-115:	Installation of No Parking Tow-Away Zones on Certain Streets in Centre City for Traffic Control During Ballpark Events	32
ITEM-200:	Fiscal Year 2004/2005 Financial Review and Status Report and Request for Waiver of Mandated Budget Allocations	35
ITEM-201:	Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8	36
ITEM-202:	Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8	37
ITEM-S400:	Michael T. Uberuaga Day	38
ITEM-S401:	Kitty Reed Day	39
ITEM-S402:	Lupus Alert Day.....	39
ITEM-S403:	Accredited Home Lenders, Inc., Day.....	40

ITEM-S404: San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings and Related Matters	41
* ITEM-S405: Reimbursement for Fire Recovery Efforts in the Scripps-Miramar Ranch Maintenance Assessment District	51
ITEM-S406: Appointment of Councilmember Zucchet to the City's Chargers Negotiation Team	53
* ITEM-S407: Agreement with GeoSyntec Consultants for Hazard Mitigation Plans Related to the 2003 San Diego Fires	54
ITEM-S408: Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8	56
ITEM-S409: Notice of Pending Final Map Approval – Renaissance at North Park	57
NON-DOCKET ITEMS	58
ADJOURNMENT.....	58

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:15 p.m. Mayor Murphy recessed the meeting at 2:56 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:07 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:13 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:20 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 5:11 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 5:22 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 7:05 p.m. into Closed Session immediately following the meeting in the 12th floor conference room to discuss anticipated and existing litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour/Maland/Lane (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk Chuck Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

ITEM-30: Two actions related to "Ty Odeh Day" and Recognition of Scripps Institution of Oceanography and the University of California, San Diego.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-972) ADOPTED AS RESOLUTION R-299001

Commending Ty Odeh for his generous contributions to the community;

Proclaiming March 29, 2004 to be “Ty Odeh Day” in the City of San Diego.

Subitem-B: (R-2004-971) ADOPTED AS RESOLUTION R-299002

Expressing deep appreciation to Scripps Institution of Oceanography and the University of California, San Diego for their generous contributions to the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:40 p.m. – 2:44 p.m.)

MOTION BY PETERS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Approval of Council Minutes.

TODAY’S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

03/08/2004

03/09/2004

03/15/2004

03/16/2004

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

MOTION BY ATKINS TO APPROVE. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-50: Tenants' Right To Know (Cause Eviction) Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 3/16/2004 (Council voted 5-3. Councilmembers Peters, Maienschein, and Madaffer voted nay. Mayor Murphy not present):

(O-2004-55 Rev.) TRAILED TO TUESDAY, MARCH 30, 2004

Amending Chapter 9, Article 8, of the San Diego Municipal Code, by adding a new Division 7, titled "Tenants' Right to Know Regulations;" and by adding new Sections 98.0701, 98.0702, 98.0720, 98.0725, 98.0730, 98.0750, 98.0760, and 98.0765, all pertaining to Cause for Residential Evictions.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:22 p.m. – 5:27 p.m.)

MOTION BY INZUNZA TO TRAIL THE ITEM TO TUESDAY, MARCH 30, 2004, DUE TO THE LACK OF TIME. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-not present.

* ITEM-100: Awarding a Contract to John Carey Construction for the Central Area Police Station Expansion.

(Logan Heights Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-950) ADOPTED AS RESOLUTION R-299003

Approving the plans and specifications for the construction of the Central Area Police Station Expansion (Project) on Work Order No. 360450;

Authorizing the City Manager to execute the Project contract with the lowest responsible and reliable bidder, John Carey Construction, in an amount not to exceed \$918,900, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to appropriate \$1,021,103 in Fund No. 19364 and \$26,361 in Fund No. 18707 for CIP-36-045.0, Police Crime Laboratory Expansion;

Authorizing the expenditure of an amount not to exceed \$1,021,103 from Fund No. 19364 and \$26,361 from Fund No. 18707 for CIP-36-045.0, Police Crime Laboratory Expansion, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to appropriate and expend \$26,361 of interest earnings from Fund No. 19364 to reimburse Fund No. 18707, contingent upon receipt of authorization of granting agency to use grant interest on Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves. (BID-K031397C)

CITY MANAGER SUPPORTING INFORMATION:

The existing Central Area Police Station at the corner of 25th Street and Imperial Avenue is a 23,500 sq. ft. facility. This facility is serving Logan Heights, Grant Hill, Sherman Heights, Barrio Logan, and nearby areas. This project provides for a 5,000 sq. ft. second story expansion which will create more office space for police units relocating from the police headquarters at 1401 Broadway, and provide additional space for the crime lab expansion at the police headquarters. This project is fully funded by a California State Office of Criminal Justice Planning Grant.

FISCAL IMPACT:

The total project cost is estimated at \$1,347,464. Funds are available in CIP-36-045.0, Central Area Police Expansion.

Loveland/Belock/AO

Aud. Cert. 2400876.

FILE LOCATION: W. O. 360450

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Awarding a Contract to Erickson-Hall Construction Company for the Construction of Fire Station 12 and 31.

(See City Manager Report CMR-04-063. Navajo and Southeastern San Diego Community Areas. Districts 4 and 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-984) ADOPTED AS RESOLUTION R-299004

Authorizing the City Manager to execute, an agreement with Erickson-Hall Construction Co., for the construction of Fire Station 12, CIP-33-081.0, for an amount not to exceed \$3,147,000, and Fire Station 31, CIP-33-088.0, for an amount not to exceed \$2,962,000, for a total amount not to exceed \$6,109,000 under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to appropriate \$315,000 from CIP-33-505.0, La Jolla Cove Lifeguard Tower, Fund No. 92110, FLS Construction Fund, and \$990,000 from CIP-33-503.0, La Jolla Shores Lifeguard Tower, Fund No. 92110, FLS Construction Fund, and \$130,000 from CIP-29-494.0, Children's Pool Lifeguard Tower, Fund No. 92110, FLS Construction Fund, and \$309,938 from CIP-33-098.0, Major Components, Fund No. 92110, FLS Construction Fund, to CIP-33-081.0, Fire Station 12;

Authorizing the City Auditor and Comptroller to expend \$1,744,938 from CIP-33-081.0, Fire Station 12, Fund No. 92110, Fire and Life Safety Construction Fund, for the construction of Fire Station 12, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with City Treasurer;

Authorizing the City Auditor and Comptroller, to appropriate \$372,900 from CIP-33-098.0, Major Components, Fund No. 92110, FLS Construction Fund, and \$400,000 from CIP-33-091.0, Fire Station 54, Fund No. 92110, FLS Construction Fund, and \$543,000 from CIP-33-104.0, Fire Station 5, Fund No. 92110, FLS Construction Fund, and \$37,000 from CIP-33-093.0, Fire Station 1, Fund No. 92110, FLS Construction Fund, and \$140,000 from CIP-33-090.0, Fire Station 2, Fund No. 92110, FLS Construction Fund, and \$259,000 from CIP-33-080.0, Fire Station 17, Fund No. 92110, FLS Construction Fund, and \$312,554 from CIP-33-069.0, Kearny Villa Maintenance Facilities, Fund No. 92110, FLS Construction Fund, to CIP-33-088.0, Fire Station 31;

Authorizing the City Auditor and Comptroller to expend \$2,064,454 from CIP-33-088.0, Fire Station 31, Fund No. 92110, Fire and Life Safety Construction Fund, for the construction of Fire Station 31, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to replenish the transferred funds when the second Fire and Life Safety Bond issuance occurs;

Authorizing the City Auditor and Comptroller upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.
(BID-K041940C)

Aud. Cert. 2400903.

FILE LOCATION: CONT – ERICKSON-HALL CONSTRUCTION,
W. O. 330810/330880

COUNCIL ACTION: (Time duration: 6:48 p.m. – 7:02 p.m.)

MOTION BY LEWIS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-102: Sunset Cliffs Boulevard Improvements – Street Enhancements.

(Ocean Beach and Peninsula Community Areas. District-2.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-952) ADOPTED AS RESOLUTION R-299005

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$89,850 from CIP-52-348.0, Coastal Infrastructure Improvements, to CIP-52-698.0, Sunset Cliffs Boulevard Improvements within Fund No. 102232, Transient Occupancy Tax Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend \$89,850 from Fund No. 102232, Transient Occupancy Tax Fund, CIP-52-698.0, Sunset Cliffs Boulevard Improvements, for the purpose of engineering, landscaping, and related expenses.

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The Sunset Cliffs Boulevard Improvements Project, CIP-52-698.0, has provided for the widening of the Sunset Cliffs Boulevard from the previous two-lane roadway to a new four-lane major road between West Point Loma Drive to Nimitz Boulevard, in accordance with the community plan. The project included widened pavement. Class III bike lanes, storm drain facilities, curbs, gutters, striping, median improvements, traffic signal upgrades, and dedicated right turn lanes at the intersections with West Point Loma Drive and Nimitz Boulevard. This portion of the project's construction is now substantially complete.

The original project included hardscape improvements and some landscaping. However, additional landscaping of the median areas along Sunset Cliffs Boulevard was requested by the Community. This additional landscaping within the four medians at the intersections of Sunset Cliffs Boulevard, Nimitz Boulevard, and Interstate 8 ramp will be performed through a separate

contract. Because only partial funding is available, the contract will include a bid alternative approach and the remaining portions will only be awarded pending availability of additional funds.

FISCAL IMPACT:

The total estimated cost of the project is \$1,324,000. Of this amount, \$1,204,000 was previously authorized. \$89,850 is available in Fund 102232, Transient Occupancy Tax Fund. The remaining amount of \$30,150 from the estimated project cost is unfunded. If this amount is not identified prior to award, the work associated with the remaining medians will not be performed.

Loveland/Belock/PKB

Aud. Cert. 2400879.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: Transfer of Funds – Los Peñasquitos Creek Neighborhood Park - Tot Lot Upgrade.

(Rancho Peñasquitos Community Area. District-1.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-957) ADOPTED AS RESOLUTION R-299006

Authorizing the City Auditor and Comptroller to increase an amount not to exceed \$5,000 in the Fiscal Year 2004 Capital Improvements Program Budget in CIP-29-416.0, Peñasquitos Creek Neighborhood Park – Tot Lot Upgrade, Fund No. 392190, Black Mountain Ranch Development Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$5,000 from CIP-29-416.0, Peñasquitos Creek Neighborhood Park – Tot Lot Upgrade, for the purpose of construction of the Peñasquitos Creek Neighborhood Park – Tot Lot Upgrade Project and related costs.

CITY MANAGER SUPPORTING INFORMATION:

The Peñasquitos Creek Neighborhood Park - Tot Lot Upgrade is located at the southeast corner of Camino Ruiz and Park Village Road in the Peñasquitos East community area. The project provides for the upgrading of the play equipment at this neighborhood park to comply with current, state and federal accessibility and safety regulations.

In order to complete the project, additional work beyond the scope of the construction contract was required to raise the sand level in the tot lot, and to construct concrete curbing along the tot lot perimeter. The construction change was necessary to reduce the elevation difference between the sand and the new resilient surfacing to improve safety.

This request will cover the cost associated with the construction change order for the extra work described above.

FISCAL IMPACT:

The total project cost is \$185,000 of which \$180,000 has been previously authorized by Resolutions R-294210 (\$150,000) and R-297341 (\$30,000). The remaining funds, \$5,000, are available in Fund No. 392190, Black Mountain Ranch Development Agreement.

Herring/Oppenheim/AP

Aud. Cert. 2400881.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: La Jolla Mesa Vista Underground Utility District.

(La Jolla Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-917) ADOPTED AS RESOLUTION R-299007

Amending the Fiscal Year 2004 Capital Improvement Program Budget by adding CIP-37-027.0, La Jolla Mesa Vista Underground Utility District;

Authorizing the City Manager to accept \$15,810 from the property owners of La Jolla Mesa Vista, to be deposited into Fund No. 63022, Private and Other Contributions, for the purpose of providing funds for the preliminary engineering design of the La Jolla Mesa Vista Underground Utility District;

Amending the Fiscal Year 2004 Capital Improvements Program Budget for CIP-37-027.0, La Jolla Mesa Vista Underground Utility District, Fund No. 63022, Private and Other Contributions, by increasing the budget amount by \$15,810;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$15,810 from CIP-37-027.0, La Jolla Mesa Vista Underground Utility District, Fund No. 63022, for the purpose of providing funds for the preliminary engineering design of La Jolla Mesa Vista Underground Utility District, providing that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

At the request of a group of residents in the La Jolla Mesa Vista neighborhood, the City has assisted the property owners in evaluating options to facilitate the undergrounding of their overhead utilities. Because this is a residential neighborhood, it does not satisfy Council

Policy 600-8 or Public Utilities Commission rules to be included in the City's 8209/20A Program.

This action will consist of consulting San Diego Gas & Electric, SBC Communications, and Time Warner Cable Company in providing engineering design for converting approximately one mile of existing overhead utility lines to underground along the existing right of way on Candlelight Drive and Lamplight Drive as the first phase of the creation of the La Jolla Mesa Vista Underground Utility District. The expense of the preliminary engineering design for undergrounding existing utility lines for La Jolla Mesa Vista will be financed through each property owner that will be affected by the creation of the underground utility district.

FISCAL IMPACT:

No City cost.

Loveland/Belock/AO

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-105: Agreement with Central Commercial Revitalization Corporation for the Administration of Contracts for Goods and Contracts for Services for the Central Commercial Maintenance Assessment District.

(Southeastern San Diego Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-978) ADOPTED AS RESOLUTION R-299008

Authorizing the City Manager to execute an agreement with Central Commercial District Revitalization Corporation, for administration of Contracts for Goods and Contracts for Services for the Central Commercial Maintenance Assessment District for a period of five months, in accordance with the San Diego Municipal Code Section 65.0212;

Declaring that the effective date and term of the Agreement is February 1, 2004 through June 30, 2004;

Authorizing the expenditure of an amount not to exceed \$15,000 from Fund No. 70260, Dept. No. 70260, Org. No. 2000, Acct. No. 4151, and Job Order No. 002000, for the purpose of providing funds for administration services with the Central Commercial District Revitalization Corporation, beginning February 1, 2004 through June 30, 2004.

CITY MANAGER SUPPORTING INFORMATION:

The Maintenance Assessment District Ordinance, San Diego Municipal Code Section 65.0212, paragraph (b)(2), authorizes the City Council to approve a one-year agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts, if the required percentage of property owners have requested it. On August 8, 2000, the property owners in the Central Commercial Maintenance Assessment District (District) requested their contracts to be administered by the "Central Commercial Revitalization Corporation" (Corporation). The Corporation has managed the contracts satisfactorily since the initial Agreement and wishes to continue the current Agreement with the City of San Diego from February 1, 2004 to June 30, 2004.

This action will authorize the City Manager to sign and continue the Agreement between the City and the Corporation for a period of 5 months beginning on February 1, 2004 and ending on June 30, 2004.

1. The Corporation will administer Contracts for Goods and Contracts for Services and prepare financial statements for the District as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer's Report for the Central Commercial Maintenance Assessment District.
2. The Corporation will perform all duties as set forth in the Agreement under Article I, Section B, referred to as Specific Requirements. The Corporation will be reimbursed for these services within fifteen (15) working days from receipt of properly prepared reimbursement requests.

3. To ensure that the Agreements are aligned with the City's established fiscal years, the Agreement is structured for five months. At the beginning of Fiscal Year 2005, a new Agreement will be considered for July 1, 2004 through June 30, 2005.

4. The Corporation will be compensated for administration in an amount not to exceed 15% of the Adopted FY 2004 budget.

FISCAL IMPACT:

Funds are available in the Central Commercial Maintenance Assessment District (Fund 70260) to reimburse the Corporation for maintenance services. Current funds available as per FY 2004 approved budget are \$273,030.56.

Herring/Cunningham/JK

Aud. Cert. 2400899.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Agreement with Little Italy Association for Administration of Contracts for Goods and Contracts for Services for the Little Italy Assessment District.

(Centre City Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-979) ADOPTED AS RESOLUTION R-299009

Authorizing the City Manager to execute an agreement with the Little Italy Association of San Diego, for administration of Contracts for Goods and Contracts for Services for the Little Italy Maintenance Assessment District for a period of six months in accordance with San Diego Municipal Code Section 65.0212;

Declaring that the effective date and term of the Agreement is January 1, 2004 through June 30, 2004;

Approving the expenditure of an amount not to exceed \$18,750 (\$6,562.50 from Fund No. 70261, Dept. No. 70261, Org. No. 2000, Acct. No. 4151, Job Order No. 002000 and \$12,187.50 from Fund No. 70261, Dept. No. 70261, Org. No. 2050, Acct. No. 4151, Job Order No. 02050), for the purpose of providing administration services from January 1, 2004 through June 30, 2004.

CITY MANAGER SUPPORTING INFORMATION:

The Maintenance Assessment District Ordinance, San Diego Municipal Code Section 65.0212 paragraph (b)(2), authorizes the City Council to approve a one year Agreement with non-profit corporations to administer the Contracts for Goods and Contracts for Services in Maintenance Assessment Districts, if the required percentage of property owners have requested it. On August 8, 2000, the property owners in the Little Italy Maintenance Assessment District (District) requested their contracts to be administered by the "Little Italy Association" (Association). The Association has managed the contracts satisfactorily since the initial Agreement and wishes to continue the current Agreement with the City of San Diego from January 1, 2004 through June 30, 2004.

This action will authorize the City Manager to sign and continue the Agreement between the City and the Association for a period of 6 months beginning on January 1, 2004 and ending on June 30, 2004.

1. The Association will administer Contracts for Goods and Contracts for Services and prepare financial statements for the District as provided for in the Maintenance Assessment District Ordinance, Landscape and Lighting Act of 1972, and as set forth in the Assessment Engineer's Report for the Little Italy Maintenance Assessment District.
2. The Association will perform all duties as set forth in the Agreement under Article I, Section B, referred to as Specific Requirements. The Association will be reimbursed for these services within fifteen (15) working days from receipt of properly prepared reimbursement requests.

3. To ensure that the Agreement is aligned with the City's established fiscal years, the Agreement is structured for five months. At the beginning of Fiscal Year 2005, a new Agreement will be considered for July 1, 2004 through June 30, 2005.
4. The Association will be compensated for administration in an amount not to exceed 15% of the adopted FY04 budget. Current Administration Balance is \$23,146.61 (Org. 2000/\$8,101.31) and (Org. 2050/\$15,045.30).

FISCAL IMPACT:

Funds are available in the Little Italy Maintenance Assessment District (Fund 70261) to reimburse the Association for maintenance services. Current Funds available: \$217,152.75.

Herring/Cunningham/JK

Aud. Cert. 2400898.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Agreement with Project Design Consultants for As-Needed Consultant-Civil Engineering Services.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-956) ADOPTED AS RESOLUTION R-299010

Authorizing the City Manager to execute an Agreement with Project Design Consultants, for as-needed consultant-civil engineering services;

Authorizing the expenditure not to exceed \$250,000 from Fund 30244, contingent upon the City Auditor and Comptroller furnishing a certificate demonstrating that funds are available.

CITY MANAGER SUPPORTING INFORMATION:

On August 21, 2002, the Park Planning and Development Division conducted interviews with five civil engineering firms (P&D Consultant, Nasland Engineering, Project Design Consulting, Pountney Consulting, and PBS&J) to provide as-needed civil engineering services for its Division. As a result of the interviews, Project Design Consultants was chosen to provide as-needed civil engineering services.

This As-Needed Civil Engineer Contract will include tasks pertaining to Civil Engineering designs to include but not limited to: grading, concrete, and asphalt paving, drainage, stand alone walls, retaining wall, water service and sewer lateral design, and ADA upgrades. Services for individual projects will be authorized through a Task Order and be limited to \$100,000. The Agreement is effective for two years with a cumulative total up to \$250,000.

FISCAL IMPACT:

There is no fiscal impact with this action. However, the total amount request for approval is \$250,000 which will come from Fund 30244 (CIP Construction Fund). Each project will be individually charged for each task requested under this agreement.

Herring/Oppenheim/KR

Aud. Cert. 2400884.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-108: Second Amendment to Agreement with EMA, Inc., for Telemetry Control Systems-Supervisory Control and Data Acquisition (SCADA)-Phase II.

(See memorandum from Frank Belock, Jr., dated 3/2/2004.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-875) ADOPTED AS RESOLUTION R-299011

Authorizing the City Manager to execute, a Second Amendment to Agreement with EMA, Inc., for Phase II of the Telemetry Control Systems-SCADA for an amount not to exceed \$1,372,833, for a total contract amount not to exceed 3,990,187;

Authorizing the additional expenditure of an amount not to exceed \$1,377,053.88 from Water Fund 41500, CIP-73-348.0, Telemetry Control Systems-SCADA-Phase II, for the purpose of providing funds for the above referenced Project and related costs;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

This is Phase II of a two phase program to install a modern Supervisory Control and Data Acquisition (SCADA) system. The SCADA system is monitoring and controlling all critical water distribution sites. Phase I included the central control and operations components as well as Remote Control Panels (RCPs) at 42 of the water distribution sites. Due to additional work that has been identified, Phase II has been divided into five (5) parts, Phase IIa, IIb, IIc, IId, and IIe. Phase IIa includes the installation of RCPs to control 60 additional water distribution sites. Phase IIb includes remediation work at 36 existing sites. Phase IIc includes installation of RCPs at 29 large meter sites.

Phase IId includes installation of RCPs at 72 sites, an operating efficiency assessment, a communication network upgrade, and Intranet functionality for data access. Phases IIa through IIc are completed and Phase IId is nearing completion.

Recently, additional work was developed under Phase IIe. Phase IIe includes the work identified in the Water Operations Optimization plan. This Council action funds the implementation of the recommendations of the plan with the existing SCADA consultant, EMA, Inc.

FISCAL IMPACT:

The total estimated cost of Phase II is \$13,364,599. The estimated cost of this request is \$1,377,053.88, of which \$1,372,833 is for the 2nd Amendment to the Agreement with EMA, Inc., and \$4,220.88 for engineering related costs. Funding of \$1,377,053.88 is available in Water Fund 41500, CIP-73-348.0, Telemetry Control Systems-SCADA -Phase II for this purpose.

Loveland/Belock/HR

Aud. Cert. 2400774.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Extending Lease Agreement with Allan Company for Miramar Recycling Center Service Contract.

(See memorandum from Elmer L. Heap, Jr., dated 3/11/2004.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-702) ADOPTED AS RESOLUTION R-299012

Authorizing the City Manager to execute, a one-year contract extension to the Miramar Recycling Center Service Contract/Real Property Lease Agreement with Allan Company for the operation of the Miramar Recycling Center under the terms and conditions, set forth in the First Extension to Miramar Recycling Center Service Contract/Real Property Lease;

Authorizing the City Auditor and Comptroller to deposit revenues received under the First Extension to the Agreement in Fund No. 41210-Recycling Fund.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

In 2001, the San Diego City Council authorized the City Manager to execute a new agreement with Allan Company (Contractor) for the operation of the Miramar Recycling Center (Center), located at the entrance of the City's Miramar Landfill (RR-295859). The new agreement provided the City with increased revenue, services, and capital improvements, in exchange for a five-year base-term with a three-year evergreen extension clause. The Contractor is nearing the end of the second year of the agreement, and exercising the clause will result in one year being added to the agreement. If the clause is not exercised, it would serve as the three-year notice for the termination of the agreement.

Extending the current agreement will allow Contractor to continue providing City residents with high quality services in support of the City's efforts to meet State mandated solid waste diversion goals.

In the first two years of the current agreement, Contractor has spent a total of \$223,200 in permanent site improvements; increased customer usage by 25 percent; and has expanded services to residents by accepting, at the City's request, special handling items such as appliances containing chlorofluorocarbons (CFC) (refrigerators, freezers and air conditioners), other appliances, and cathode ray tube (CRT) devices such as computer monitors and TVs. Other services offered at the Recycling Center at the request of the City are free shredding and recycling of tax documents during April, cooking oil recycling, and sale of bagged Miramar Greenery compost.

FISCAL IMPACT:

Revenues from this agreement are estimated at \$41,400 for FY 2004, \$53,400 for FY 2005, \$65,400 for FY 2006 and increasing to \$77,400 per year thereafter.

Loveland/Hays/KP

FILE LOCATION: LEAS – ALLAN COMPANY

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Amendment No. 1 to the Agreement with Boyle Corporation and Street Repairs for Sewer Pump Station No. 42.

(See memorandum from Frank Belock, Jr. dated 3/2/2004. La Jolla Community Area. District-1.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-918) ADOPTED AS RESOLUTION R-299013

Authorizing the City Manager to execute First Amendment No.1 to Agreement with Boyle Engineering Corporation, for engineering services at a cost not to exceed \$40,000, for a total not to exceed \$274,900;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$127,176 from Sewer Fund 41506, CIP-46-602.6, Sewer Pump Station No. 79, to Sewer Fund 41506, CIP-46-106.0, Annual Allocation-Sewer Pump Stations into contingency for Sewer Pump Station 42, for the purpose of providing funds for road work and related engineering expenses for the above referenced Project;

Authorizing the expenditure of an amount not to exceed \$40,000, from Sewer Fund 41506, CIP-46-602.6, for the purpose of providing funds for the above referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

Council authorized an agreement with Boyle Engineering Corporation on July 9, 2001, Document No. R-295119, to provide engineering services for the design of Sewer Pump Station 42. Sewer Pump Station 42 is located at 5387 Calumet Avenue in the La Jolla Community area. The project entails partial demolition and expansion of the existing structure of Sewer Pump Station 42, to construct a new wet well and underground emergency storage tanks and to provide back-up generator and new electrical components. Included is the installation of two (2) six-inch force mains of approximately 1,005 feet each as well as the replacement of 733 linear feet of 8-inch gravity sewer main in Calumet Avenue and Midway Street.

During the early phases of design, two (2) underground emergency storage tanks were added to the scope of work which depleted available funds for the consultant's construction support of the project. Additionally, during construction of the force main and gravity main portion of Sewer Pump Station 42, the condition of Calumet Avenue and Midway Street were found to require pavement repair exceeding the amount specified in the contracts.

As a result of the required scope changes and the complexity of this project, this amendment covers expenses for these unforeseen conditions and design support during the construction phase to ensure successful construction completion.

Council action is required to approve Amendment No.1 to the contract agreement with Boyle Engineering Corporation for an additional amount not to exceed \$40,000 and authorize \$127,176 to repair pavement for Sewer Pump Station 42.

FISCAL IMPACT:

The estimated cost of this action is \$167,176 of which \$40,000 is for engineering services and \$127,176 is for construction contingency.

The consultant agreement with Boyle Engineering Corporation previously authorized \$234,900 by Council Resolution R-295119. The first amendment will authorize additional compensation not to exceed \$40,000 for consulting services for a total agreement cost of \$274,900. Funding of \$127,176 for contingency is available in Sewer Fund 41506, CIP-46-106.0, Annual Allocation Sewer Pump Station Restorations, for this purpose.

Loveland/Belock/HR

Aud. Cert. 2400825.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-111: Grant Application for Funding of a Citywide Pedestrian Master Plan.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-967) ADOPTED AS RESOLUTION R-299014

Authorizing the City Manager to apply to California Office of Traffic Safety (COTS) for grant funding in the amount of \$611,800, for development of the Master Plan;

Authorizing the City Manager to apply to San Diego Association of Governments (SANDAG) for grant funding in the amount of \$150,000, for development of the Master Plan;

Authorizing the City Manager to take all necessary actions to secure and accept grant funds from COTS and SANDAG for development of the Master Plan; and to submit all documents and to negotiate and execute all agreements necessary to comply with COT's and SANDAG's grant requirements;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend grant funds, if the grants are secured;

Authorizing the City Auditor and Comptroller to establish special interest-bearing funds for the grants, if secured.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego is requesting consideration of grant funding up to \$761,800 required for the development of a Citywide Pedestrian Master Plan. Grant funding will be requested from the California Office of Traffic Safety (\$611,800) and the San Diego Association of Governments (SANDAG) as the regional administrator of the Transportation Development Act claims program (\$150,000). These funding sources are competitive.

The Pedestrian Master Plan will identify safe routes to pedestrian activity centers throughout the City. Pedestrian activity centers include: schools, transit stops and stations, commercial and mixed-use areas, senior centers, libraries, recreation centers, and parks. Along these routes, pedestrian infrastructure improvement projects will be identified. Pedestrian improvement projects will enhance safety, workability, mobility, accessibility, and neighborhood quality. The projects will be prioritized from short to long-term.

The Pedestrian Master Plan will identify pedestrian friendly and traffic calming designs from the City's adopted Street Design Manual. The routes and projects will be identified based on community input and technical analysis. City staff and the project consultant will conduct meetings/workshops with community planning groups throughout the City. The Pedestrian Master Plan will be a key resource for the City in securing grant funding needed to implement infrastructure improvement projects that promote the General Plan's Strategic Framework Element's pedestrian safety, workability, mobility, accessibility, and neighborhood quality goals.

FISCAL IMPACT:

No fiscal impact. If approved, the City would receive up to \$761,800 in the grant funding. Matching funds are not required for the grants.

Ewell/Goldberg/SH/TG

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-112: DUI P.A.C.E. (Prevention through Awareness and Cooperative Education) Car Program - Office of Traffic Safety Grant.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-963) ADOPTED AS RESOLUTION R-299015

Authorizing the Chief of Police to accept and administer funds for DUI P.A.C.E. (Prevention through Awareness and Cooperative Education) Car Program, and that such authorization shall include all aspects of grant acceptance, operation, expenditures, contracting, and certification that the City will comply with all applicable statutory or regulatory requirements related to said program;

Authorizing the Chief of Police to execute any contracts, amendments, extensions, renewals, or future funding for this program for a period of up to five years, provided funding is made available by the State of California;

Declaring that any liability arising out of our performance of this Grant Award Agreement, including civil court actions for damages, shall be the responsibility of the City of San Diego. The State of California and the California Office of Traffic Safety disclaim responsibility for any such liability;

Declaring that grant funds and/or resources received hereunder shall not be used to supplant expenditures controlled by this body.

CITY MANAGER SUPPORTING INFORMATION:

The California Office of Traffic Safety accepts grant applications only from units of government. However, they encourage partnerships with Community Agencies to provide services. The San Diego Police Department, in cooperation with the Pacific Safety Council, has developed the DUI P.A.C.E. (Prevention through Awareness and Cooperative Education) Car Program. The DUI P.A.C.E. Car Program furnishes young adults with first-hand experience and awareness, under controlled conditions, essential to becoming a safe driver. The Program is designed to meet the educational needs of San Diego's young drivers by combining mobility and interactive learning to maximize accessibility and reinforce the educational experience.

Over the two-year period, the Program plans to conduct 75 P.A.C.E. Car events. In addition to the P.A.C.E. Car educational presentations, events will include occupant protection awareness, field sobriety testing, and a mock funeral for a young "auto crash victim," to demonstrate the widespread effect that such a death has on friends and family.

Pacific Safety Council will also provide education and information at youth-oriented/community events, such as the Miramar Air Show, during the grant period.

The San Diego Police Department will subcontract much of the operational responsibility for this grant program to the Pacific Safety Council. A contract with PSC for \$221,598.60 will be processed under a separate action.

FISCAL IMPACT:

This OTS grant provides \$250,000 for a two-year grant from the California Office of Traffic Safety. The grants pay overtime for three officers as instructors at 20 eight-hour events; along with a 3% charge for City administrative costs to provide fiscal and administrative grant management. There is no requirement for matching funds, and no requirement to continue grant operations, expenses, or contractual relationship with PSC after grant funds are terminated.

Uberuaga/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-113: La Jolla Village Drive Widening – Property Rights.

(University Community Area. District-1.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-966 Cor. Copy) ADOPTED AS RESOLUTION R-299016

Authorizing the City Manager to accept from the Regents of the University of California two Quitclaim Deeds, for right of way for street dedication across portions of University property, as depicted on City Engineering Drawing No. 00066-1 & -2-C, and as specifically described in the Quitclaim Deeds;

Authorizing the City Manager to accept from the Regents of the University of California a Grant of Easement and Agreement for a slope easement, for an easement across a portion of University property, depicted on City Engineer Drawing No. 00066-2-C, and as specifically described in the Grant of Easement and Agreement;

Authorizing the City Manager to expend an amount not to exceed \$7,500 from Fund 79001, Facilities Benefit Assessment Fund, CIP-52-452.0, La Jolla Village Drive – Torrey Pines Road to Villa La Jolla Drive, for staff labor and miscellaneous charges associated with the acquisition of property rights required for the La Jolla Village Drive Widening Project.

CITY MANAGER SUPPORTING INFORMATION:

The City's La Jolla Village Drive Widening project, CIP-52-452.0, will result in a six traffic-lane prime arterial with sidewalks and bike lanes between North Torrey Pines Road and Gilman Drive, and eight traffic-lane prime arterial for Gilman Drive to Villa La Jolla Drive. The project also includes bridge widening and interchange improvements at the La Jolla Village Drive and Gilman Drive overcrossing. In order to make the improvements, additional street right-of-way and a portion of an adjacent slope are required from the Regents of the University of California.

This action authorizes the City Manager to accept two quitclaim deeds and one easement deed from the Regents of the University of California for the additional property rights required to complete the road widening and improvements. Additionally, while there is no cost to the City

for the actual property rights being acquired, an amount not to exceed \$7,500 is being requested to cover accumulated staff labor charges and miscellaneous costs associated with the acquisition of the property rights.

FISCAL IMPACT:

Funds in the amount of \$7,500 are available in Facilities Benefit Assessment Fund 79001, CIP-52-452.0 (La Jolla Village Drive Widening -Torrey Pines Road to Villa La Jolla Drive), to cover accumulated staff labor charges and miscellaneous costs associated with the acquisition of property rights.

Herring/Griffith/SLG

Aud. Cert. 2400895.

FILE LOCATION: DEED F-9716

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-114: Appointment and Reappointment to the San Diego Planning Commission.

(See memorandum from Mayor Murphy dated 3/11/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-958) ADOPTED AS RESOLUTION R-299017

Council confirmation of the following appointment and reappointment by the Mayor, to serve as members of the Planning Commission, for four-year terms ending January 28, 2008:

Appointment

Dennis Y. Otsuji

(Replacing Bruce G. Brown, whose term has expired)

Reappointment

Kathleen A. Garcia

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-115: Installation of No Parking Tow-Away Zones on Certain Streets in Centre City for Traffic Control During Ballpark Events.

(Centre City Community Area. District-2.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-909) ADOPTED WITH DIRECITON AS RESOLUTION
R-299018

Declaring that parking may be prohibited during City events, as defined in Section 59.0101 of the San Diego Municipal Code, on the following streets as determined by the City Manager that provide pedestrian and vehicular access to PETCO Park:

- On both sides of 7th Avenue between Island Avenue and “L” Street
- On both sides of 8th Avenue between Island Avenue and “J” Street
- On both sides of 9th Avenue between Island Avenue and “J” Street
- On both sides of 10th Avenue between Market Street and Park Boulevard
- On both sides of 11th Avenue between Market Street and Park Boulevard
- On both sides of 14th Street between Imperial Avenue and “K” Street

- On both sides of 16th Street between “J” Street and “K” Street
- On both sides of “J” Street from 6th Avenue to 11th Avenue, and from 16th Street to 17th Street
- On both sides of “K” Street from 6th Avenue to 7th Avenue, and from 13th Street to 16th Street
- On the south side of Imperial Avenue from 14th Street to 15th Street
- On both sides of Imperial Avenue from 16th Street to 19th Street
- On the west side of Park Boulevard from 11th Avenue to Tony Gwynn Drive

Declaring that these parking prohibitions on the aforementioned streets that provide pedestrian and vehicular access to PETCO Park are to be enforced as tow-away zones, under the authority of California Vehicle Code Section 22651(n) and San Diego Municipal Code Sections 81.09 and 86.05;

Authorizing the installation of the necessary signs and markings to be made on said streets, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Declaring that the final Environmental Impact Report has been reviewed and considered prior to approving the project and directing the City Clerk to file a Notice of Determination.

CITY MANAGER SUPPORTING INFORMATION:

California Vehicle Code Section 22651(n) requires City Council action for the installation of TOW AWAY zones. The proposed TOW AWAY zones are part of the PETCO Park Event Transportation Parking and Management Plan (ETPMP) which was approved by Council on January 26, 2004. The proposed restrictions are required in order to provide safe and efficient circulation for pedestrians, transit, and other vehicles during Ballpark events. Police Department and Engineering and Capital Projects staff have worked jointly on this project, and recommend approval of the requested TOW AWAY zones during Ballpark events. The subject event parking restrictions will be posed on permanent signs on each street affected, and will be widely advertised during events through the media and other means of communication. This action will permit the installation of No Parking – TOW AWAY zones during Ballpark Events on the following streets:

- On both sides of 7th Avenue between Island Avenue and “L” Street
- On both sides of 8th Avenue between Island Avenue and “J” Street
- On both sides of 9th Avenue between Island Avenue and “J” Street
- On both sides of 10th Avenue between Market Street and Park Boulevard
- On both sides of 11th Avenue between Market Street and Park Boulevard
- On both sides of 14th Street between Imperial Avenue and “K” Street
- On both sides of 16th Street between “J” Street and “K” Street
- On both sides of “J” Street from 6th Avenue to 11th Avenue, and from 16th Street to 17th Street
- On both sides of “K” Street from 6th Avenue to 7th Avenue, and from 13th Street to 16th Street
- On the south side of Imperial Avenue from 14th Street to 15th Street
- On both sides of Imperial Avenue from 16th Street to 19th Street
- On the west side of Park Boulevard from 11th Avenue to Tony Gwynn Drive

This plan will be implemented in phases as some of the affected areas are currently under construction. Parking on all these streets will be allowed when there are no events taking place at PETCO Park, subject to existing restrictions.

FISCAL IMPACT:

Fiscal impact is \$32,000. This cost was not specifically budgeted but will be incorporated into the Streets Division fiscal year Traffic Control and Signage workload.

Loveland/Belock/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:44 p.m. – 6:48 p.m.)

MOTION BY ATKINS TO ADOPT THE RESOLUTION WITH DIRECTION TO THE CITY MANAGER TO SEEK LEGAL REIMBURSEMENT FOR \$17,000 FROM CENTRE CITY DEVELOPMENT CORPORATION. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-200: Fiscal Year 2004/2005 Financial Review and Status Report and Request for Waiver of Mandated Budget Allocations.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-965) ADOPTED AS AMENDED AS RESOLUTION R-299019

Fiscal Year 2004/2005 Financial Review and Status Report and Request for Waiver of Mandated Budget Allocations:

- a. City Manager's request to temporarily suspend mandated budget allocations for library system – waiver per San Diego Municipal Code Section 22.0228(e).
- b. City Manager's request to temporarily suspend mandated budget allocations for Mission Bay improvements system – waiver per San Diego Municipal Code Section 22.0229(e).
- c. City Manager's request to temporarily suspend Council Policy to increase to General Fund Reserve per City Council Policy 100-20.
- d. City Manager's request to waive and delay implementation of Council Policy 100-18 (policy for 45% of parking meter revenues to Parking meter Districts) with respect only to the increased amount of parking meter fees scheduled for implementation in Fiscal Year 2004.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:28 p.m. – 6:42 p.m.)

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION AS AMENDED TO: 1) REMOVE THE REQUEST TO TEMPORARILY SUSPEND MANDATED BUDGET ALLOCATIONS FOR MISSION BAY IMPROVEMENTS SYSTEM – WAIVER PER SAN DIEGO MUNICIPAL CODE SECTION 22.0229E; 2) TO BRING BACK TO COUNCIL AN UPDATE OF THE ITEMS THAT WERE VOTED DOWN LAST YEAR, IF REVENUE STILL EXISTS, AS A POSSIBILITY FOR

RECONSIDERATION IN 2005 BUDGET; 3) EXAMINE AT RULES COMMITTEE A TRANSIENT OCCUPANCY TAX PROPOSAL ALLOCATING 1-¼ CENTS FOR POLICE AND FIRE WITH NO OTHER EARMARKING OF THE REMAINING 10-½ CENTS DISCRETIONARY FUNDS AND A SUNSET PROVISION IN THAT EARMARKING ONCE THE DOLLARS HAVE BEEN IDENTIFIED; 4) EXAMINE ALL OF THE OPTIONS THAT FALL UNDER REVENUE; AND 5) PREPARE AN ANALYSIS COMPARING THE FUNDS FOR NON-CORE CITY SERVICES TO BASIC CITY SERVICES TO AID IN DETERMINING PRIORITY. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-201: REFERRED TO CLOSED SESSION ON TUESDAY, MARCH 30, 2004

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Qualcomm Stadium.

Agency Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers.

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to City Council discussion in Closed Session and in compliance with the Brown Act (California Government Code Section 54956.8), this item is listed on the docket **only** for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the City Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

NOTE: Members of the public wishing to address the City Council on this item should speak “in favor” or “in opposition” to the subject.

The public hearing was held and Mayor Murphy referred the item to Closed Session.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 6:43 p.m. – 6:43 p.m.)

ITEM-202: REFERRED TO CLOSED SESSION ON TUESDAY, MARCH 30, 2004

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: An approximate 396-acre parcel owned by the City of San Diego commonly known as Mt. Woodson located north of and adjacent to the City of Poway (APN 278-211-01 and 278-081-05) and an approximate 19.6-acre parcel owned by the City of Poway commonly known as the Pomerado Wastewater Treatment Plant site located in the City of San Diego (APN 316-231-04, 06, 14, 16, and 17)

City Negotiators: Real Estate Assets Director
Senior Deputy City Manager

Negotiating Party: City of Poway.

Under Negotiation: Seeking direction on the exclusive exchange of these properties.

Prior to City Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this item is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the City Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on March 30, 2004.

NOTE: Members of the public wishing to address the City Council on this item should speak "in favor" or "in opposition" to the subject.

The public hearing was held and Mayor Murphy referred the item to Closed Session.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:54 p.m.)

ITEM-S400: Michael T. Uberuaga Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-999) ADOPTED AS RESOLUTION R-299000

Recognizing and thanking Michael T. Uberuaga for his six-and-a-half years of service as City Manager and to the people of our great City;

Proclaiming March 29, 2004 to be "Michael T. Uberuaga Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:33 p.m.)

MOTION BY FRYE TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: Kitty Reed Day.

COUNCILMEMBER LEWIS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-960) ADOPTED AS RESOLUTION R-299020

Commending Kitty Reed for the dedication and commitment she has provided to numerous citizens in the City of San Diego;

Proclaiming March 29, 2004 to be "Kitty Reed Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:45 p.m. – 2:49 p.m.)

MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: Lupus Alert Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-992) ADOPTED AS RESOLUTION R-299021

Commending the Lupus Foundation of Southern California for its continued commitment to educating and supporting those residents living with Lupus in the County of San Diego and Imperial Counties;

Proclaiming April 1, 2004 to be “Lupus Alert Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:49 p.m. – 2:53 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S403: Accredited Home Lenders, Inc., Day.

COUNCILMEMBER MAIENSCHIN’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-993) ADOPTED AS RESOLUTION R-299022

Honoring Accredited Home Lenders, Inc., for their outstanding service and dedication to the people of San Diego;

Proclaiming March 30, 2004 to be “Accredited Home Lenders, Inc., Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:53 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Lewis. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S404: San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings and Related Matters.

(Continued from the meeting of March 22, 2004, Item S403, for full Council to be present.)

At the regular meeting of the City Council on March 15, 2004, the Council considered the matter of compliance with the California Brown Act and the noticing of matters for open and closed sessions of the San Diego City Council. Specifically, the City Council considered recommendations contained in a Report from Deputy Mayor Atkins and Councilmember Frye dated March 15, 2004. The City Council gave direction at the aforementioned meeting to the City Attorney to prepare for the regular meeting of the City Council on March 22, 2004 all necessary documents for the City Council to adopt and/or procedurally implement the recommendations contained in the Report from Deputy Mayor Atkins and Councilmember Frye. The City Council gave further direction to the City Attorney to analyze and comment upon the recommendations contained in the Report from Deputy Mayor Atkins and Councilmember Frye.

(See City Attorney's Report No. RC-2004-8)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-982) ADOPTED AS RESOLUTION R-299023

Adopting a temporary rule, attached as Attachment "A" and incorporated herein by reference, which shall be called the "San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings;"

Declaring that the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings as set forth in Attachment "A" shall remain in effect for 120 calendar days from adoption or until such time that the Permanent Rules of the City Council are effectively amended to incorporate the subject matter addressed in the temporary rule, whichever occurs first;

Declaring that in accordance with Rule 31 of the Permanent Rules of the City Council, while the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings is in effect, if any provision of the temporary

rule is in conflict with a Permanent Rule, the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings shall supersede and govern;

Establishing an Ad-Hoc subcommittee of three Council members to be known as the "Right to Know Committee." This Committee shall draft a proposal for a new Permanent Rule of the City Council to address the topic covered by the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings. The Right to Know Committee shall file a final report with the Rules Committee no later than 60 days after its first meeting, outlining a proposal for amendments to the Permanent Rules of the Council, which amendments shall be considered by the Rules Committee in accordance with Permanent Rule 33. In addition to the topic covered by the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings, the Right to Know Committee may consider and propose amendments to the Permanent Rules of the City Council with respect to the following topics: serial meetings; non-agenda public comment; the public's ability to obtain documents; noticing of meetings; and Brown Act compliance of City of San Diego boards, commissions, and committees. The Right to Know Committee shall be subject to the provisions of the Brown Act;

Directing the City Attorney to prepare a ballot measure, in the normal course of preparation of such matters for consideration by the Rules Committee, for placement on the November 2004 ballot for the purpose of amending the San Diego Charter to add a provision similar to California Senate Constitutional Amendment No. 1 (SCA 1), attached as Attachment "B" and hereby incorporated by reference, which is a proposed amendment to the Constitution of the State of California adopted by the State Legislature and scheduled for voter consideration on the November 2004 statewide ballot.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:07 p.m. – 5:11 p.m.)

MOTION BY FRYE TO ADOPT SECTION 1, FORM AND MANNER OF NOTICE OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

A. ALL CLOSED SESSION ITEMS SHALL APPEAR ON A CLOSED SESSION AGENDA OR SUPPLEMENTAL CLOSED SESSION, WHICH AGENDA MAY BE SEPARATE AND DISTINCT FROM THE CITY COUNCIL'S REGULAR MEETING AGENDA, BUT WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC AND DISTRIBUTED CONCURRENT WITH THE REGULAR MEETING AGENDA OF THE CITY COUNCIL, WHICH SHALL MEET THE 72-HOUR PUBLIC NOTICING REQUIREMENT. A LINE ITEM SHALL APPEAR ON THE REGULAR CITY COUNCIL DOCKET INDICATING THAT CLOSED SESSION ITEMS WILL BE APPEARING ON A SEPARATE CLOSED SESSION AGENDA. THE CLOSED SESSION ITEMS WILL BE APPEARING ON A SEPARATE CLOSED SESSION AGENDA. THE CLOSED SESSION AGENDA SHALL CLEARLY INDICATE THE TIME AND PLACE THAT OPEN SESSION DISCUSSION OF CLOSED SESSION ITEMS IS SCHEDULED TO OCCUR. CLOSED SESSION AGENDA SHALL FURTHER INDICATE THE TIME AND PLACE THE SCHEDULED CLOSED SESSION WILL OCCUR.

B. ALL CLOSED SESSION AGENDA ITEMS SHALL CONTAIN DESCRIPTIONS, WHICH CAN BE EASILY UNDERSTOOD AND INFORMATIVE TO THE PUBLIC IN A MEANINGFUL WAY, UNLESS TO DO SO WOULD HARM THE CITY AND PUBLIC INTEREST BY DISCLOSING FACTS THAT ARE NOT KNOWN TO THE ADVERSE PARTY IN ANY LITIGATION OR NEGOTIATIONS. MEANINGFUL MEANS: "CLEAR AND SPECIFIC ENOUGH TO ALERT A PERSON OF AVERAGE INTELLIGENCE AND EDUCATION WHOSE INTEREST ARE AFFECTED BY THE ITEM THAT HE OR SHE MAY HAVE A REASON TO ATTEND THE MEETING OR SEEK MORE INFORMATION ON THE ITEM. THE DESCRIPTION SHOULD BE CONCISE AND WRITTEN IN PLAIN, EASILY UNDERSTOOD WORDS."

C. FOR AUTHORIZED EXCEPTIONS TO OPEN MEETINGS, THE FOLLOWING MINIMUM NOTICING AND DISCLOSURE SHALL APPLY:

(1) SIGNIFICANT EXPOSURE TO LITIGATION

WHEN A CLOSED SESSION IS SCHEDULED UNDER THE HEADING – "SIGNIFICANT EXPOSURE TO LITIGATION" – UNLESS THE FACTS AND CIRCUMSTANCES CREATING THE THREAT OF LITIGATION ARE NOT YET KNOWN TO THE LIKELY PLAINTIFFS, SUCH FACTS AND CIRCUMSTANCES MUST BE MADE KNOWN TO THE PUBLIC. SUPPLEMENTAL ORAL OR

**WRITTEN ANNOUNCEMENTS SHALL BE MADE IN THE FOLLOWING
CIRCUMSTANCES:**

- (a) THERE HAS BEEN NO COMMUNICATION YET FROM THE FORESEEABLE PLAINTIFFS BUT THE CITY IS AWARE OF CIRCUMSTANCES LIKELY TO PROMPT A LITIGATION THREAT – FOR EXAMPLE, AN ACCIDENT, DISASTER, INCIDENT, OR TRANSACTIONAL DISPUTE; IN SUCH INSTANCES THE CIRCUMSTANCES SHALL BE STATED ON THE AGENDA IF KNOWN AT THE TIME OF ITS 72-HOUR ADVANCE POSTING OR ANNOUNCED PRIOR TO THE CLOSED SESSION IF NOT.
- (b) IF A CLAIM OR SOME OTHER WRITTEN THREAT OF LITIGATION HAS BEEN RECEIVED, THE DOCUMENT IS A PUBLIC RECORD AND A COPY SHALL BE ATTACHED TO THE AGENDA IF KNOWN AT THE TIME OF ITS 72-HOUR ADVANCE POSTING OR ANNOUNCED AND DISTRIBUTED TO THOSE REQUESTING A COPY PRIOR TO THE CLOSED SESSION IF NOT.
- (c) WHEN THE CLOSED SESSION IS DEEMED TO BE JUSTIFIED BY A LITIGATION THREAT MADE IN AN OPEN AND PUBLIC MEETING, REFERENCE TO THE STATEMENT SHALL BE STATED ON THE AGENDA IF KNOWN AT THE TIME OF ITS 72-HOUR ADVANCE POSTING OR ANNOUNCED PRIOR TO THE CLOSED SESSION IF NOT.
- (d) WHEN AN ORAL THREAT OF LITIGATION IS MADE OUTSIDE A MEETING, IT MAY NOT BE MADE THE BASIS OF A CLOSED SESSION UNLESS THE OFFICIAL WHO HEARD IT HAS MADE A MEMO EXPLAINING WHAT WAS SAID AND BY WHOM. A COPY OF THE MEMO SHALL BE ATTACHED TO THE AGENDA IF THE THREAT IS KNOWN AT THE TIME OF ITS 72-HOUR ADVANCE POSTING OR ANNOUNCED AND DISTRIBUTED PRIOR TO THE CLOSED SESSION IF NOT.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

PROPERTY: SPECIFY STREET ADDRESS, (OR IF NO STREET ADDRESS, THE PARCEL NUMBER OR OTHER UNIQUE REFERENCE, OF THE REAL PROPERTY UNDER NEGOTIATION)

AGENCY NEGOTIATOR: SPECIFY NAMES OF NEGOTIATORS ATTENDING THE CLOSED SESSION (IF CIRCUMSTANCES NECESSITATE THE ABSENCE OF A SPECIFIED NEGOTIATOR, AN AGENT OR DESIGNEE MAY PARTICIPATE IN PLACE OF THE ABSENT NEGOTIATOR SO LONG AS THE NAME OF THE AGENT OR DESIGNEE IS ANNOUNCED AT AN OPEN SESSION HELD PRIOR TO THE CLOSED SESSION.)

NEGOTIATING PARTIES: SPECIFY NAME OF PARTY (NOT AGENT)

UNDER NEGOTIATION: SPECIFY WHETHER INSTRUCTION TO NEGOTIATOR WILL CONCERN PRICE, TERMS OF PAYMENT, OR BOTH

(3) CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

NAME OF CASE: (SPECIFY BY REFERENCE TO CLAIMANT'S NAME, NAMES OF PARTIES, CASE, OR CLAIM NUMBERS)

OR

CASE NAME UNSPECIFIED: (SPECIFY WHETHER DISCLOSURE WOULD JEOPARDIZE SERVICE OF PROCESS OR EXISTING SETTLEMENT NEGOTIATIONS)

D. IN OPEN SESSION, BEFORE PUBLIC COMMENT OR CITY COUNCIL DISCUSSION OF ANY CLOSED SESSION ITEM, THE CITY ATTORNEY OR APPROPRIATE STAFF SHALL PROVIDE AN ORAL UPDATE OR PROGRESS REPORT ON MATTERS UNDER LITIGATION, REAL PROPERTY NEGOTIATIONS OR EMPLOYEE UNIT BARGAINING.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT SECTION II, PUBLIC PARTICIPATION OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

THE PUBLIC SHALL HAVE THE OPPORTUNITY TO DIRECTLY ADDRESS THE CITY COUNCIL ON ANY CLOSED SESSION ITEM ON THE AGENDA, PRIOR TO CITY COUNCIL QUESTIONS AND DISCUSSION ON THE ITEM AND AFTER THE ORAL REPORT BY THE CITY ATTORNEY OR APPROPRIATE STAFF.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT SECTION III, COUNCIL DEBATE AND ACTION IN OPEN SESSION OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

AT THE REGULAR OR SPECIAL MEETING OF THE CITY COUNCIL, THE MAYOR AND COUNCILMEMBERS SHALL HAVE THE OPPORTUNITY TO DISCUSS THE BASIS FOR CONVENING INTO CLOSED SESSION, ASK QUESTIONS, AND RESPOND TO QUESTIONS FROM THE PUBLIC.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT SECTION IV, TRANSCRIPTION OF CLOSED SESSIONS OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

ALL CLOSED SESSIONS SHALL BE TRANSCRIBED BY A CERTIFIED COURT REPORTER. ALL TRANSCRIPTS SHALL BE RETAINED.

Second by Atkins. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-yea, Lewis-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-nay, Mayor Murphy-nay.

MOTION BY FRYE TO ADOPT SECTION V, REPORTING OF CLOSED SESSION RESULTS IN OPEN SESSION OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

A. AFTER EVERY CLOSED SESSION, IF A PUBLIC REPORT OF ANY FINAL ACTION TAKEN IS REQUIRED AS SET FORTH HEREIN, THE MAYOR AND CITY COUNCIL SHALL ADJOURN FROM CLOSED SESSION RECONVENE IN OPEN SESSION, AND PUBLICLY REPORT SUCH FINAL ACTION AND THE VOTE OR ABSTENTION OF EVERY MEMBER PRESENT AS FOLLOWS:

(1) APPROVAL OF AN AGREEMENT CONCLUDING REAL ESTATE NEGOTIATIONS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.8 SHALL BE REPORTED AFTER THE AGREEMENT IS FINAL, AS SPECIFIED BELOW:

- (a) IF THE MAYOR AND CITY COUNCIL'S OWN APPROVAL RENDERS THE AGREEMENT FINAL, THEY SHALL REPORT THAT APPROVAL AND THE SUBSTANCE OF THE AGREEMENT IN OPEN SESSION AT THE PUBLIC MEETING DURING WHICH THE CLOSED SESSION IS HELD.
- (b) IF FINAL APPROVAL RESTS WITH THE OTHER PARTY TO THE NEGOTIATIONS, THE LOCAL AGENCY SHALL DISCLOSE THE FACT OF THAT APPROVAL AND THE SUBSTANCE OF THE AGREEMENT UPON INQUIRY BY ANY PERSON, AS SOON AS THE OTHER PARTY OR ITS AGENT HAS INFORMED THE LOCAL AGENCY OF ITS APPROVAL.

(2) APPROVAL GIVEN TO THE CITY'S LEGAL COUNSEL TO DEFEND, OR SEEK OR REFRAIN FROM SEEKING APPELLATE REVIEW OR RELIEF, OR TO ENTER AS AN AMICUS CURIAE IN ANY FORM OF LITIGATION AS THE RESULT OF A CONSULTATION UNDER CALIFORNIA GOVERNMENT CODE SECTION 54956.9 SHALL BE REPORTED IN OPEN SESSION AT THE PUBLIC MEETING DURING WHICH THE CLOSED SESSION IS HELD. THE REPORT SHALL IDENTIFY, IF KNOWN, THE ADVERSE PARTY OR PARTIES AND THE SUBSTANCE OF THE LITIGATION. IN THE CASE OF APPROVAL GIVEN TO INITIATE OR INTERVENE IN AN ACTION, THE ANNOUNCEMENT NEED NOT IDENTIFY THE ACTION, THE DEFENDANTS, OR OTHER PARTICULARS, BUT SHALL SPECIFY THAT THE DIRECTION TO INITIATE OR INTERVENE IN AN ACTION HAS BEEN GIVEN AND THAT THE ACTION, THE DEFENDANTS, AND THE OTHER PARTICULARS SHALL, ONCE FORMALLY COMMENCED, BE DISCLOSED TO ANY PERSON UPON INQUIRY, UNLESS TO DO SO WOULD JEOPARDIZE THE AGENCY'S ABILITY TO EFFECTUATE SERVICE OF PROCESS ON ONE OR MORE UNSERVED PARTIES, OR THAT TO DO SO WOULD JEOPARDIZE ITS ABILITY TO CONCLUDE EXISTING SETTLEMENT NEGOTIATIONS TO ITS ADVANTAGE.

(3) APPROVAL GIVEN TO ITS LEGAL COUNSEL OF A SETTLEMENT OF PENDING LITIGATION, AS DEFINED IN CALIFORNIA GOVERNMENT CODE SECTION 54956.9, AT ANY STAGE PRIOR TO OR DURING A JUDICIAL OR QUASI-JUDICIAL PROCEEDING SHALL BE REPORTED AFTER THE SETTLEMENT IS FINAL, AS SPECIFIED BELOW:

- (a) IF THE LEGISLATIVE BODY ACCEPTS A SETTLEMENT OFFER SIGNED BY THE OPPOSING PARTY, THE BODY SHALL REPORT ITS ACCEPTANCE AND IDENTIFY THE SUBSTANCE OF THE AGREEMENT IN OPEN SESSION AT THE PUBLIC MEETING DURING WHICH THE CLOSED SESSION IS HELD.
- (b) IF FINAL APPROVAL RESTS WITH SOME OTHER PARTY TO THE LITIGATION OR WITH THE COURT, THEN AS SOON AS THE SETTLEMENT BECOMES FINAL, AND UPON INQUIRY BY ANY PERSON, THE LOCAL AGENCY SHALL DISCLOSE THE FACT OF THAT APPROVAL, AND IDENTIFY THE SUBSTANCE OF THE AGREEMENT.

(4) ACTION TO APPOINT, EMPLOY, DISMISS, ACCEPT THE RESIGNATION OF, OR OTHERWISE AFFECT THE EMPLOYMENT STATUS OF A PUBLIC EMPLOYEE IN CLOSED SESSION PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54957 SHALL BE REPORTED AT THE PUBLIC MEETING DURING WHICH THE CLOSED SESSION IS HELD. ANY REPORT REQUIRED BY THIS PARAGRAPH SHALL IDENTIFY THE TITLE OF THE POSITION. THE GENERAL REQUIREMENT OF THIS PARAGRAPH NOTWITHSTANDING, THE REPORT OF A DISMISSAL OR OF THE NONRENEWAL OF AN EMPLOYMENT CONTRACT SHALL BE DEFERRED UNTIL THE FIRST PUBLIC MEETING FOLLOWING THE EXHAUSTION OF ADMINISTRATIVE REMEDIES, IF ANY.

(5) APPROVAL OF AN AGREEMENT CONCLUDING LABOR NEGOTIATIONS WITH REPRESENTED EMPLOYEES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54957.6 SHALL BE REPORTED AFTER THE AGREEMENT IS FINAL AND HAS BEEN ACCEPTED OR RATIFIED BY THE OTHER PARTY. THE REPORT SHALL IDENTIFY THE ITEM APPROVED AND THE OTHER PARTY OR PARTIES TO THE NEGOTIATION.

B. REPORTS THAT ARE REQUIRED TO BE MADE PURSUANT TO THIS SECTION MAY BE MADE ORALLY OR IN WRITING. THE CITY SHALL PROVIDE TO ANY PERSON WHO HAS SUBMITTED A WRITTEN REQUEST TO THE LEGISLATIVE BODY WITHIN 24 HOURS OF THE POSTING OF THE

AGENDA, OR TO ANY PERSON WHO HAS MADE A STANDING REQUEST FOR ALL DOCUMENTATION AS PART OF A REQUEST FOR NOTICE OF MEETINGS PURSUANT TO SECTION 54954.1 OR 54956, IF THE REQUESTER IS PRESENT AT THE TIME THE CLOSED SESSION ENDS, COPIES OF ANY CONTRACTS, SETTLEMENT AGREEMENTS, OR OTHER DOCUMENTS THAT WERE FINALLY APPROVED OR ADOPTED IN THE CLOSED SESSION. IF THE ACTION TAKEN RESULTS IN ONE OR MORE SUBSTANTIVE AMENDMENTS TO THE RELATED DOCUMENTS REQUIRING RETYPING, THE DOCUMENTS NEED NOT BE RELEASED UNTIL THE RETYPING IS COMPLETED DURING NORMAL BUSINESS HOURS, PROVIDED THAT AN ORAL SUMMATION OF THE SUBSTANCE OF THE AMENDMENTS HAS BEEN MADE FOR THE BENEFIT OF THE DOCUMENT REQUESTER OR ANY OTHER PERSON PRESENT AND REQUESTING THE INFORMATION.

C. THE DOCUMENTATION REFERRED TO IN PARAGRAPH (B) SHALL BE AVAILABLE TO ANY PERSON ON THE NEXT BUSINESS DAY FOLLOWING THE MEETING IN WHICH THE ACTION REFERRED TO IS TAKEN OR, IN THE CASE OF SUBSTANTIAL AMENDMENTS, WHEN ANY NECESSARY RETYPING IS COMPLETE.

D. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THAT THE LEGISLATIVE BODY APPROVE ACTIONS NOT OTHERWISE SUBJECT TO LEGISLATIVE BODY APPROVAL.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT SECTION VI, LITIGATION LOG OF SAN DIEGO COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS PROPOSAL SUBMITTED BY COUNCIL MEMBER FRYE AND COUNCIL MEMBER ATKINS:

THE CITY ATTORNEY, IN COORDINATION WITH THE CITY CLERK SHALL PROVIDE TO THE MAYOR AND CITY COUNCIL A WEEKLY LISTING OF ALL LITIGATION FILED AGAINST OR BY THE CITY OF SAN DIEGO, ITS OFFICERS, OR EMPLOYEES, AND ANY CITY BOARDS, REDEVELOPMENT AGENCIES, AND COMMISSION, ETC., (COLLECTIVELY "THE CITY") THAT HAS BEEN SERVED UPON THE CITY. THE LIST SHALL INCLUDE THE COURT IN WHICH THE CASE WAS FILED, THE NAME OF THE LITIGANTS, THE DATE FILED, AND THE COURT CASE NUMBER. A COPY OF THE LIST SHALL BE KEPT ON

FILE IN THE OFFICE OF THE CITY CLERK AND AVAILABLE FOR MEMBERS OF THE PUBLIC. THE LIST SHALL BE PROVIDED EVERY WEEK, AND SHALL REPORT ON CASES SERVED THE IMMEDIATE SUCCEEDING WEEK.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT PART 2 OF THE RESOLUTION DECLARING THAT THE SAN DIEGO CITY COUNCIL TEMPORARY RULE FOR NOTICING CONDUCT OF CLOSED SESSION MEETINGS AS SET FORTH IN COUNCIL MEMBERS FRYE/ATKINS PROPOSAL SHALL REMAIN IN EFFECT UNTIL SUCH TIME THAT THE PERMANENT RULES OF THE CITY COUNCIL ARE EFFECTIVELY AMENDED TO INCORPORATE THE SUBJECT MATTER ADDRESSED IN THE TEMPORARY RULE.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT PART 3 OF THE RESOLUTION DECLARING THAT IN ACCORDANCE WITH RULE 31 OF THE PERMANENT RULES OF THE CITY COUNCIL, WHILE THE SAN DIEGO CITY COUNCIL TEMPORARY RULE FOR NOTICING AND CONDUCT OF CLOSED SESSION MEETINGS IS IN EFFECT, IF ANY PROVISION OF THE TEMPORARY RULE IS IN CONFLICT WITH A PERMANENT RULE, THE SAN DIEGO CITY COUNCIL TEMPORARY RULE FOR NOTICING CONDUCT OF CLOSED SESSION MEETINGS SHALL SUPERSEDE AND GOVERN.

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT PART 4 OF THE RESOLUTION ESTABLISHING AN AD-HOC SUBCOMMITTEE OF THREE COUNCIL MEMBERS TO INCLUDE DEPUTY MAYOR ATKINS, COUNCIL MEMBER FRYE, AND COUNCIL MEMBER MADAFFER TO BE KNOWN AS THE "RIGHT TO KNOW COMMITTEE."

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

MOTION BY FRYE TO ADOPT PART 5 OF THE RESOLUTION DIRECTING THE CITY ATTORNEY TO PREPARE A BALLOT MEASURE, IN THE NORMAL COURSE OF PREPARATION OF SUCH MATTERS FOR CONSIDERATION BY THE RULES COMMITTEE, FOR PLACEMENT ON THE NOVEMBER 2004 BALLOT FOR THE PURPOSE OF AMENDING THE SAN DIEGO CHARTER TO ADD A PROVISION INCORPORATING ARTICLE 1, SECTION 3, SUBSECTION B, PARAGRAPH 1, EXPRESSION OF GENERAL INTENT, SIMILAR TO CALIFORNIA SENATE CONSTITUTIONAL AMENDMENT NO. 1 (SCA 1).

Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-S405: Reimbursement for Fire Recovery Efforts in the Scripps-Miramar Ranch Maintenance Assessment District.

(Scripps Miramar Ranch Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1000) ADOPTED AS RESOLUTION R-299024

Authorizing the City Auditor and Comptroller to appropriate and expend \$242,000 from the Environmental Growth Fund One-Third fund balance, Fund No. 105051, into Department 9321, Organization 2051 – Emergency Open Space Maintenance;

Authorizing the City Auditor and Comptroller to reimburse expenditures incurred by the Scripps-Miramar Ranch Maintenance Assessment District Fund No. 70211 with Environmental Growth Fund One-Third fund balance, Fund No. 105051, Department No. 9321, Organization No. 2051, for expenditures associated with removal of trees damaged in the Cedar Fire in City-owned open space areas located in Scripps-Miramar Ranch;

Authorizing the City Auditor and Comptroller to accept reimbursement funds from FEMA and the State Office of Emergency Services (OES) for an amount not

to exceed \$242,000 and to deposit the funds into the Environmental Growth Fund One-Third fund balance, Fund No. 105051.

CITY MANAGER SUPPORTING INFORMATION:

The City, through the Scripps-Miramar Ranch Maintenance Assessment District (MAD), has conducted fire cleanup services on the City-owned parcels within the eucalyptus grove along Pomerado Road. The initial cost of the tree felling and removal operation is approximately \$242,000. The initial effort, which lasted from October 2003 through February 2004, provided for removal of trees felled immediately after the fire by the California Department of Forestry, and subsequent felling and removal of additional damaged trees. Costs for these activities were funded by the Scripps-Miramar Ranch MAD with the expectation that the district would be reimbursed by the Federal Emergency Management Administration (FEMA) and the State Office of Emergency Services (OES). The last phase has not yet been initiated pending a decision by FEMA and the State OES to approve additional tree felling and removal as a reimbursable item.

Currently the City is pursuing reimbursement from FEMA and the State OES for the costs associated with the fire cleanup on public parcels in Scripps-Miramar Ranch, as well as Tierrasanta and Mission Trails. For expenses that are deemed eligible for reimbursement FEMA will reimburse 75% of the total cost. The remaining 25% in expenses is the responsibility of the State and local government. The current formula for the remaining 25% includes the State's share of 18.75% and the City's of 6.25%. Some work performed in the area may not meet all the eligibility criteria of FEMA and the State OES, and these costs would have to be absorbed by the Environmental Growth Fund One-Third.

The reimbursement process is not expected to be timely enough to avoid an impact to the Scripps-Miramar Ranch Maintenance Assessment District's regular scope of services during Fiscal Year 2004. Without an infusion of funds by April 2004, the Scripps-Miramar Ranch MAD will have to severely reduce normal landscape maintenance and other services. Therefore, to allow the MAD to continue operations, and to reimburse the Scripps-Miramar Ranch Maintenance Assessment District for full costs of the fire recovery effort, another funding source is required.

This action would reimburse expenditures already incurred by the Scripps-Miramar Ranch MAD with funding from the Environmental Growth Fund One-Third in the amount of \$242,000. If FEMA and the State OES approve the City's reimbursement request, funds would be deposited into the Environmental Growth Fund One-Third. The Environmental Growth Fund One-Third would have to absorb whatever difference exists between actual costs and FEMA and State OES reimbursements.

FISCAL IMPACT:

\$242,000 is available in the Environmental Growth Fund One-Third fund balance to cover expenses incurred by the Scripps-Miramar Ranch Maintenance Assessment District to conduct fire cleanup on City property. Reimbursement for the Scripps-Miramar Ranch fire recovery is anticipated from the Federal Emergency Management Agency (FEMA) and the State Office of Emergency Services (OES). Reimbursements for these costs would be deposited into the Environmental Growth Fund One-Third upon receipt of funding.

Herring/Oppenheim/AF

Aud. Cert. 2400923.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S406: Appointment of Councilmember Zucchet to the City's Chargers Negotiation Team.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1009 Cor. Copy) ADOPTED AS RESOLUTION R-299025

Designating Councilmember Michael Zucchet as a member of the City Negotiating Team to represent the City in negotiations with the Chargers Football Company (Chargers) related to the Agreement between the City and Chargers for the Use and Occupancy of Qualcomm Stadium.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 6:43 p.m. – 6:43 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-nay, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-S407: Agreement with GeoSyntec Consultants for Hazard Mitigation Plans Related to the 2003 San Diego Fires.

(Scripps Ranch and Tierrasanta; and the Otay, San Vicente, and El Capitan Reservoirs Community Areas. Districts-5 and 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1007) ADOPTED AS RESOLUTION R-299026

Authorizing the City Manager to execute an agreement with GeoSyntec Consultants, for services related to the 2003 San Diego Fires for an amount not to exceed \$464,900;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$464,900 from the Water Fund Unallocated Reserve, Fund 41500, Org. 5005, Program 765005, Object Account 4903, to the Watershed Program, Fund 41500, Org. 5023, Job Order 30454, Object Account 4222, for the purpose of consultant services related to the 2003 San Diego Fires;

Authorizing the expenditure of an amount not to exceed \$464,900, from the Water Fund Unallocated Reserve, Fund 41500, Org. 5005, Program 765005, Object Account 4903, to the Watershed Program, Fund 41500, Org. 5023, Job Order 30454, Object Account 4222, for the purpose of providing funds for the above referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

Due to the urgency of addressing post-fire sediment and erosion control problems stemming from the Cedar and Otay fires in the communities of Tierrasanta and Scripps Ranch, and the Otay, San Vicente, and El Capitan reservoirs, the City needed to move rapidly in order to preclude potential problems from exacerbating the damage the fire had already caused.

As this was a formally declared Local Emergency and the protection from slope failure due to significant potential erosion related to the safety of citizens and property; City staff acted under the authority of the City Manager to immediately work with a post-fire erosion control consultant and contractors to perform the work.

This Council action funds the consultant services to assess the fire damage and assist in determining the City's plan of action to best protect the public's health and safety, and minimize further damage to property from the impending winter rains. The consultant completed an assessment of Tierrasanta and Scripps Ranch and recommended an erosion mitigation plans for each which have been implemented. All property was physically inspected for the following potential or existing hazards: landslides; mud, debris, and sediment flows; flooding; rock falls and retaining structure problems resulting from the fire. These hazards were then correlated to five potential public impacts to determine a final work priority rating of high, medium, and low. The five public impacts are: public health and safety; severity of public and private property damage; infrastructure damage or related concerns; transportation damage; and damage to the receiving waters (i. e., creeks, rivers, lakes, reservoirs, lagoons, bays, and ocean).

Based on the consultant's assessment, the City implemented the mitigation plans at most of the high and medium priority sites by installing erosion and sediment control devices. Due to a concern of military ordinance in some of the areas in Tierrasanta, some of the identified work was not completed. These areas are being monitored and if clearance is given in the future, it will be determined if the work needs to be implemented. At this time, the low priority areas will be allowed to naturally restore themselves and will be continuously monitored for potential future work.

The Mitigation Plan for the reservoirs includes measures to protect water infrastructure, public safety, and real property. In addition, the Water Department will be constructing turbidity curtains in the San Vicente and Otay Reservoirs to protect water quality and will be increasing its water quality monitoring at the three reservoirs, when possible, during rain events. This agreement also includes additional services, if needed, during the 2005 winter season.

FISCAL IMPACT:

The non-reservoir consultant work is \$190,000 and an additional \$40,000 for as-needed services to be funded by the General Fund (100), Engineering and Capital Projects Department (542); and the reservoir consultant work is \$219,900 and an additional \$15,000 for as-needed services to be funded by Water Fund (41500), Water Department (760). The total cost of the consultant services agreement including additional services is \$464,900. Funding is available for this purpose. Departments are currently in the process of filing for reimbursement from FEMA for these costs.

Loveland/Belock/HR

Aud. Cert. 2400924

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. – 2:37 p.m.)

CONSENT MOTION BY INZUNZA TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S408: REFERRED TO CLOSED SESSION ON TUESDAY, MARCH 30, 2004

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Approximately 1.25 acres located in the City of Santee on the east side of Highway 67 at the north terminus of Graves Avenue (APN 384-120-38)

City Negotiator: Real Estate Assets Director

Negotiating Party: Padre Dam Municipal Water District

Under Negotiation: Terms of Potential Disposition of Property

Prior to City Council discussion in Closed Session and in compliance with the Brown Act (California Government Code Section 54956.8), this item is listed on the docket **only** for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the City Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session on March 30, 2004.

NOTE: Members of the public wishing to address the City Council on this item should speak "in favor" or "in opposition" to the subject.

The public hearing was held and Mayor Murphy referred the item to Closed Session.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:55 p.m. – 2:55 p.m.)

ITEM-S409: **Notice** of Pending Final Map Approval – Renaissance at North Park.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "Renaissance at North Park" (T.M. No. 9859), a copy of which is available for public viewing at the office of the San Diego City Clerk. Said project is located northwesterly of El Cajon Boulevard and 30th Street in the Greater North Park Community Plan Area in Council District 3. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

COUNCIL ACTION: (Time duration: 7:03 p.m. – 7:05 p.m.)